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Letter dated 12 December 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 3 September 2002 (S/2002/993).

The Counter-Terrorism Committee has received the attached supplementary report from Jamaica, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its attachment to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 9 December 2002 from the Permanent Representative of Jamaica to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

In accordance with instructions from my Government, I have the honour to forward herewith, pursuant to your letter dated 27 August 2002, a copy of the report of Jamaica, which provides information on points raised by the Counter-Terrorism Committee (see enclosure).

The Government of Jamaica reaffirms its cooperation in providing the Committee with further reports or information as necessary or if so requested by the Committee.

(*Signed*) Stafford O. **Neil**
Ambassador
Permanent Representative

Enclosure

Report of the Government of Jamaica to the Counter-Terrorism Committee

Response to preliminary comments/questions posed by the Committee

Sub-paragraph 1(a)

Are natural or legal persons other than financial institutions (e.g. attorneys, notaries) required to report suspicious transactions that might be linked to terrorist activities to the public authorities? If so, what penalties apply to persons who omit to report either willfully or by negligence?

Currently, legislation obliges only financial institutions to report suspicious transactions. Until the relevant amendments are made to the Money Laundering Act and the proposed Terrorism Prevention Bill is passed, there is no obligation to report suspicious transactions that might be linked to terrorist activities.

Consideration is being given as to whether reporting obligations should be imposed on natural persons (e.g. attorneys at law etc.) in "gatekeeper occupations".

Have the terms "unusual business transaction" and "unusual patterns of transactions", which appear in section 6B (1) of "The Money Laundering Act" as amended by Act 14 of 1999, been defined or interpreted by way of regulation or otherwise?

The terms "unusual business transactions" and "unusual patterns of transactions" which appear in s. 6b(1) of the Money Laundering Act have not been judicially interpreted.

Currently, the relevant competent authority regulating the various financial institutions provides guidelines and examples of what may constitutes a suspicious transaction.

Do informal banking networks exist in Jamaica? Please outline the legal provisions regulating them, if any.

Informal banking networks do not exist in Jamaica and therefore, there are no legal provisions regulating them.

Does Jamaica intend to add acts of terrorism to the list of predicate offences in "The Money Laundering Act"?

Yes, Jamaica intends to add acts of terrorism to the list of predicate offences in the Money Laundering Act so as to widen the application of this Act to cover such offences.

Sub-paragraphs 1 (b) and (c):

Since Jamaica has signed the International Convention for the Suppression of the Financing of Terrorism, the CTC would be grateful to receive a progress report regarding any proposed amendments to implement that Convention, especially as regards Articles 2, 4 and 8 (1).

The International Convention for the Suppression and Financing of Terrorism, particularly Articles 2, 4 and 8(1), will be implemented by provisions in anticipated terrorism legislation. Presently, a draft Bill

entitled "the Prevention Against Terrorism Act" is under consideration by the Legal Working Group of the Inter-Ministerial Committee on Anti-Terrorism Measures.

Please provide the CTC with a progress report regarding the amendments of the "Drug Offences (Forfeiture of Proceeds) Act" which are envisaged in order to implement sub-paragraph 1 (c) of the Resolution.

The freezing of assets of persons who commit, attempt to commit or participate in terrorist acts will be achieved through the provision of ' restraint' orders in the proposed Terrorism Prevention Act.

Amendments to the Drug Offences (Forfeiture of Proceeds) Act are also being pursued as part of the comprehensive review and amendment of legislation complimentary to the Terrorism Prevention Bill.

Sub-Paragraph 1 (d)

Please provide the CTC with a progress report on the legislative measures currently under consideration in order to implement this sub-paragraph.

The Legislative measure currently under consideration for the implementation of sub-paragraph 1(d) of Resolution 1373 is the Terrorism Prevention Bill.

How does the financial tracking system ensure that funds receive by associations are not diverted from their states purposes to terrorist activities?

At present, Jamaica does not have a " financial tracking system" in place to ensure that funds received by associations are not diverted from their stated purposes to terrorist activities. At present the law imposes a duty to report on financial institutions under the Money Laundering Act. The duty to report, in this regard, will be imposed by the Terrorist Prevention Act when passed and will be reinforced by consequential amendments to the Money Laundering Act.

Sub-Paragraph 2 (a)

Please describe how the prohibition of the acquisition of firearms and explosives is implemented in law as well as in practice in Jamaica.

Firearms and Ammunition

Firearms may not be sold in Jamaica without the vendor having a Firearm Dealers Licence. Sale of firearms without the relevant license is an offence attracting a maximum term of 12 months at hard labour or fine.

Possession of a firearm is permissible only in accordance with the terms of a Firearm's Holder License. Once the licence is revoked or expires the firearm is deemed a prohibited weapon.

In order to obtain a Firearm Holders Permit and the import permit, application is first made through the Divisional Headquarters of the Police station in the area of the applicant's residence. The Import Licence is granted by the Trade Commission on the approval of the application by the Minister of National Security. The import licence stipulates the specific make and serial number of the firearm(s) being imported.

When the firearm arrives in Jamaica it is held by Customs Department, where on payment of the relevant duties and on satisfaction that the firearm description in the licence is consistent with the imported firearm, it is released to the licensed firearm holder. If the details do not correspond to those specified in the licence, then the importer has imported a gun illegally.

The Drug Offences (Forfeiture of Proceeds) Act provides for the forfeiture of any property of any property used in connection with firearms trafficking as well as any property derived therefrom.

Explosives

Jamaica has several pieces of legislation that regulates the importation of explosives: The Explosives (Control of Manufacture) Act, Explosives (Sale of Deposited Stores) Act, and the Gunpowder and Explosives Act.

The importation or possession of 'dangerous explosives' is prohibited unless possession or importation is pursuant to a license granted by the Minister. The licence strictly stipulates the quantities, place of storage and use of the explosives. Similar provisions exist in relation to gunpowder.

Customs at the port of importation does not allow the consignment to leave its custody unless satisfied that the consignment is consistent with the terms of the import licence and proper arrangements are in place for the transport and security of the explosives.

Applications for import licences are processed by the Ministry of National Security.

How does Jamaica control the import and export of weapons both in law and in practice?

The import and export of weapons is regulated by the Firearms Act. Jamaica has also signed the Inter-American Convention Against Illicit Manufacture and Trafficking in Firearms and the Protocol to the UN Convention on Transnational Organized Crime on the Illicit Manufacture, Sale and Trafficking in Firearms. Legislation will be amended to implement these instruments thereby strengthening control over firearms.

The Customs Act prohibits the importation of firearms or ammunition without the permission of the Commissioner of Customs. Firearms may not be exported without the permission of the Minister of National Security.

The importation, exportation and transshipment of firearms is strictly regulated under the Firearms Act. Participation in any of these activities requires the relevant permit or license and there must be adherence to the stipulations therein. Breach of these provisions may result in a maximum sentence of imprisonment for life with, or without, hard labour under the Firearms Act.

Travelers are required to declare any firearms and or ammunition, and in the absence of a firearms permit, the firearm must either be retained on the vessel or delivered to a customs officer in a sealed packet for keeping until the traveler departs. The firearm will be returned at the time of departure on the payment of customs duty or on the production of a valid firearms import permit.

Rarely, are travelers given permission to bring in a firearm. However, when permission is given, for example, a security detail for Heads of State, prior approval is necessary and the firearms and ammunition brought in must correspond with the information provided for which the permission was granted. On leaving the jurisdiction, the firearms and ammunition are examined to ensure that what entered the country is what is leaving.

What are the penalties provided for in Jamaica' s criminal legislation for the recruitment of members of terrorist groups?

The proposed draft terrorism prevention Bill will address this issue.

Please outline the measures, both legislative and practical, preventing entities and individuals from recruiting, collecting funds or soliciting other forms of support for terrorist activities to be carried out inside or outside Jamaica, including, in particular:

- ***the carrying out, within or from Jamaica, of recruiting, collecting of funds and soliciting of other forms of support from other countries; and***

- ***deceptive activities such as recruitment based on a representation to the recruit that the purpose of the recruitment is one (eg. teaching) different from the true purpose and collection of funds through front organizations.***

Currently, there is no legislation in place prohibiting or preventing entities or individuals recruiting (whether by deceptive means or otherwise) , collecting or soliciting funds or other forms of support for terrorist activities whether to be performed inside or outside Jamaica. This matter will also be addressed in the proposed anti-terrorism legislation.

Sub-paragraph 2(b)

Apart from the Jamaica Constabulary Force, which are the authorities, if any, responsible for providing early warning to other States?

The Jamaica Defense Force is responsible for providing early warning to other States under specific bilateral agreements/arrangements.

Has the Jamaica Constabulary Force considered giving early warning to foreign police authorities upon its own initiative?

The Jamaica Constabulary Force has shared information upon its own initiative. Police to police cooperation is done, but on an informal basis, that is, no documentation is supplied. This type of co-operation could be extended to include terrorist activities.

Sub-paragraph 2 (d)

Please specify which kind of additional legislation is under consideration in order to implement this sub-paragraph.

Jamaica considers that the proposed anti-terrorism legislation and consequential amendments to the Mutual Assistance (Criminal Matters) Act and the Extradition Act will be sufficient to implement this subparagraph.

Sub paragraph 2 (e)

Please explain how Jamaica intends to amend the definition of terrorism in section 2 (f) of "The Offences Against the Person Act"

Jamaica intends to amend the Offences Against the Person Act to define terrorism by incorporating the definition of the terrorist offence as set out in the Terrorism Prevention Bill.

What is the competence of the courts of Jamaica to deal with criminal acts of each of the following kinds:

- ***an act committed outside Jamaica by a person who is a citizen of, or habitually resident in, Jamaica (whether that person is currently present in Jamaica or not);***

- ***an act committed outside Jamaica by a foreign national who is currently in Jamaica?***

Generally, the jurisdiction of the Jamaican courts is confined to acts committed within the territory of the State. However, the Courts may be granted jurisdiction in both these cases identified by legislation. This will be done under the proposed Terrorism Prevention Act.

Sub paragraph 2 (f)

What is the legal timeframe within which a request for judicial assistance in criminal investigations or criminal proceedings, including those relating to the financing or support of terrorist acts, must be met? How long does it actually take in practice to implement such a request in Jamaica?

The Mutual Assistance (Criminal Matters) Act does not stipulate a time frame in which requests must be met. The Director of Public Prosecution meets requests based on the following time frame guidelines:

Requests to obtain documents/articles – 35 days from the date of receipt of the request

A period of thirty-five days is necessary to accommodate the relevant applications for 'production orders' from the courts.

Where however, the request is for records from financial institutions including banks, a longer time frame is required as this entails obtaining a ministerial order.

Evidence/Testimony - 56 days from the date of receipt of the request.

Fifty-six days are necessary as time is needed to locate the witness for court proceedings, arrange protection for the witness and at times, to accommodate foreign counsel attending the proceedings as an observer.

The processing of requests is being rationalised to increase the efficiency and timeliness with which requests are met.

Although terrorism is not currently an offence under Jamaican law, double criminality is not a prerequisite for providing assistance. The authorities are not therefore prevented from rendering assistance because an offence does not exist under our laws.

Sub Paragraph 2 (g)

Please provide the CTC with information on the mechanism for inter-agency cooperation between the authorities responsible for narcotics control, financial tracking and security, with particular regard to the border controls preventing the movement of terrorists.

The various agencies work very closely together, utilizing the others expertise on a day-to-day basis for investigations and, as needed, for specific operations. The inter-agency cooperation of the relevant agencies; immigration, customs, narcotics, financial crimes, contraband enforcement, the Police Constabulary and the Jamaica Defence Force are directed and coordinated by two Ministries of Government – National Security and Finance.

In addition, the various agencies themselves enjoy very close interaction often sharing overlapping jurisdictions. For example immigration authorities often work in tandem with the Coast Guard (Jamaica Defense Force) and the fraud agencies in the Police Constabulary Force. Similarly, customs authorities would work with the Contraband Enforcement Agency and Narcotics divisions of the Police Force.

Sub Paragraph 3 (a):

Please outline the provisions of the "Bill on the Interception of Communication" to the extent that they will be relevant for the implementation of this sub-paragraph

The Interception of Communications Act, 2002 is primarily formulated as a tool to facilitate the gathering of evidence in criminal investigations for prosecution and the exchange of this information in a regulated manner.

It furthers the exchange of operational information to the extent that it establishes and regulates an additional mode of intelligence gathering for criminal investigations.

The legal basis for the exchange of operational information between the law enforcement agencies of states is accomplished via international agreements, for example mutual legal assistance agreements, crime specific multilateral and bilateral arrangements et cetera, and the relevant implementing legislation, and, also by informal arrangements.

Sub Paragraph 3(c)

With which countries has Jamaica entered into arrangements for cooperation in fighting crime, in particular arrangements directed at preventing and suppressing terrorist attacks and taking action against perpetrators of such acts?

Jamaica has not entered into any co-operation arrangements, which focuses exclusively on preventing and suppressing criminal terrorist activity. However, the arrangements in place for crime fighting generally, i.e. the mutual legal assistance and extradition agreements would facilitate cooperation in relation to taking action against the perpetrators of terrorist acts.

With which countries has Jamaica entered into bilateral treaties on extradition and mutual legal assistance?

Countries with which Jamaica has entered treaties on extradition and mutual legal assistance are as follows:

Mutual Legal Assistance –

- United Kingdom
- United States of America.

Extradition-

- The United States

- Commonwealth countries under the Commonwealth Scheme, which are also scheduled under the Extradition Act. These countries are listed in the Annex to this report

Which are the Commonwealth countries that can benefit from Jamaican legal assistance under "The Mutual Assistance (Criminal Matters) Act" and section 3 of "The Extradition Act"?

See sub paragraph 3(c) (2) above. These countries are listed in the appendix to the present report.

Please describe how Jamaica co-operates with other States, in particular in the framework of the Organization of American States (OAS) and the Caribbean Community (CARICOM) in order to implement the Resolution.

Jamaica cooperates with other States, in particular in the framework of the Organization of American States (OAS) through the conclusion of bilateral agreements using OAS principles as a basis for this cooperation. Jamaica cooperates with the Caribbean Community (CARICOM) through the sharing of information on implementation issues, the exchange of draft legislation and the expansion of existing arrangements to combat crime to include terrorist offences.

Sub Paragraph 3(d)

The CTC would welcome a progress report, in relation to the twelve relevant international conventions and protocols relating to terrorism, on:

- ***the steps taken in order to become a party to the instruments to which Jamaica is not yet a party; and***

- ***progress made in enacting legislation, and making other necessary arrangements, to implement the instruments to which it has become a party.***

Jamaica is a party to eight of the twelve relevant international conventions and protocols relating to terrorism.

Jamaica intends to ratify the outstanding instruments once the implementing legislation i.e. the Terrorism Prevention Bill is enacted.

Sub paragraph 3(e)

Please provide the CTC with a progress report regarding the examination undertaken in Jamaica with a view to implementing aspects of the International Convention for the Suppression of Terrorist Bombing.

Jamaica intends to implement the International Convention for the Suppression of Terrorist Bombing through the Terrorist Prevention Bill.

Paragraph 4

Has Jamaica addressed any of the concerns expressed in paragraph 4 of the resolution?

Jamaica has signed or is party to several international conventions concerning international terrorism, transnational organized crime, illicit drugs, arms trafficking and is committed to implementing all obligations contained therein. Jamaica has also entered into various bilateral arrangements to better coordinate and strengthens national and regional responses to international crime.

Examples of agreements which will enhance co-ordination efforts to which Jamaica is a signatory or party are the UN Convention against Transnational Organized Crime and the three protocols, the Chemical Weapons Convention, and the 1988 Vienna Convention on Illicit Drugs in which Jamaica is an active participant.

Other Matters

Could Jamaica please provide an organizational chart of its administrative machinery, such as police, immigration control, customs, taxation and financial supervision authorities, established to give practical effect to the laws, regulations and other documents that are seen as contributing to compliance with the Resolution.

The organizational chart of Jamaica's administrative machinery will be submitted shortly.

Please provide the CTC with a progress report regarding the "framework of legislation and administrative measures to comprehensively address terrorist activity" including an "omnibus terrorism act" which are currently under consideration.

As previously mentioned, a draft Bill entitled "the Prevention Against Terrorism Act" is under consideration by the Legal Working Group of the Inter-Ministerial Committee on Anti-Terrorism Measures. The Legal Working Group has simultaneously identified and is considering the necessary amendments to other complimentary legislation. These Acts were identified in Jamaica' s second report and include money laundering, extradition and mutual legal assistance legislation.

Assistance

Jamaica has submitted a list of assistance needs. It should be noted that this list is not exhaustive. As the country continues to implement Resolution 1373 it is anticipated that other technical assistance needs will be identified.

Appendix

Sub-paragraph 3 (c)

Commonwealth countries and regions with which Jamaica has extradition arrangements under the Commonwealth scheme

Antigua and Barbuda
Australia
Bahamas
Bangladesh
Barbados
Belize
Botswana
Britain
Brunei Darussalam
Canada
Cyprus
Dominica
Gambia
Ghana
Grenada
Guyana
India
Kenya
Kiribati
Lesotho
Malawi
Malaysia
Malta
Mauritius
Nauru
New Zealand
Nigeria
Papua New Guinea
Saint Kitts and Nevis
Saint Lucia
Saint Vincent and Grenadines
Seychelles
Sierra Leone
Singapore
Solomon Islands
Sri Lanka
Swaziland
Tonga
Trinidad and Tobago
Tuvalu
Uganda
United Republic of Tanzania
Vanuatu
Western Samoa
Zambia
Zimbabwe
Maldives
Namibia